

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

HUMBERTO CRUZ,

Petitioner,

-against-

THOMAS GRIFFIN, SUPERINTENDENT,  
GREEN HAVEN CORRECTIONAL  
FACILITY,

Respondent.

-----X

Seibel, J.

Before the Court is the Report and Recommendation (the “R&R”) of Magistrate Judge Judith McCarthy dated October 24, 2019. (Doc. 18.) Judge McCarthy recommends that Petitioner’s Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254, (Doc. 1), be denied. (R&R at 44.)

A district court reviewing a magistrate judge’s R&R “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b) (1)(C). Parties may raise objections to the R & R, but they must be “specific” and “written,” and submitted “[w]ithin 14 days after being served with a copy of the recommended disposition.” Fed. R. Civ. P. 72(b)(2); *see* 28 U.S.C. § 636(b)(1)(C). The district court may adopt those portions of the R & R to which no timely objections have been made, provided no clear error is apparent from the face of the record. *See Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985); Fed. R. Civ. P. 72 advisory committee’s note.

ORDER

16-CV-8998 (CS) (JCM)

No objections to the R&R have been received. I have therefore reviewed it for clear error, and find no error, clear or otherwise.

Accordingly, the R&R is hereby adopted as the decision of the Court. The Clerk of Court shall send a copy of this Order to Petitioner, and close the case. As Petitioner has not made a substantial showing that he was denied a constitutional right, a certificate of appealability will not issue.

Dated: November 20, 2019  
White Plains, New York

  
\_\_\_\_\_  
CATHY SEIBEL, U.S.D.J.